



CRL MP(MD) No.4523 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the First day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

and

The Hon`ble Mr.Justice K. RAJASEKAR

CRL MP(MD) No.4523 of 2024

in

CRL A(MD) No.352 of 2024

1 NAGARASU

2 NAGESHWARI

... APPELLANTS/ACCUSED 1 & 2

Vs

THE INSPECTOR OF POLICE
KARAIKUDI NORTH POLICE STATION,
SIVAGANGAI DISTRICT.

... RESPONDENT/COMPLAINANT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against the petitioners in SC No.95/2017 dated 29/2/2024 passed by the Learned Additional District and Sessions Judge, Sivagangai and enlarge the petitioners on bail pending disposal of the above appeal.

Prayer in CRL A(MD) No.352 of 2024 :

To call for the records in S.C.No.95 of 2017 dated 29.02.2024 passed by the Learned Additional District and Sessions Judge, Sivagangai and to set aside the same.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of

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MR.G.KARUPPASAMY PANDIYAN, Advocate for the petitioners and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The present petition is filed by the appellants/A1 and A2 seeking to suspend the sentence imposed on them by the learned Additional District and Sessions Judge, Sivagangai in S.C.No.95 of 2017 dated 29.02.2024.

2. The petitioners/accused are convicted and sentenced by the Trial Court as follows:

Accused	Section of law	Sentence of Imprisonment	Fine amount
A1 and A2	302 IPC	Life imprisonment	Rs.10,000/- each in default to undergo 1 year simple imprisonment
	201 IPC	4 years rigorous imprisonment	Rs.2000/- in default to undergo 3 months simple imprisonment

Sentences were ordered to run concurrently and the period of incarceration already undergone by the accused was ordered to be set off under Section 428 Cr.P.C.

3. The case of the prosecution is that A2 Nageswari is the mother of the deceased Hariharan and A1 Nagarasu is the maternal uncle of the deceased. On 06.07.2016, the deceased Hariharan went to Karaikudi with his wife (P.W.11) and



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stayed in a lodge without informing his family and by that time, he assaulted his wife and as it was informed to his father, they never cared. On the next day on 07.07.2016 at 04.00 AM in the early morning, she left the lodge and later Hariharan by consuming liquor went to his house and quarrelled with his mother to convince his wife to live with him and he also caught hold his sister Nandhini's hand and dragged her to come along with him. A2 took her daughter to opposite house for her safety and she informed the incident to A1 and called him to come to Karaikudi and while he was about to come, he told A2 that they should do away with the deceased. While so, on 08.07.2016 at 01.45 hours in the midnight, A1 came to the house of A2, where Hariharan was lying in an inebriated condition and with common intention to murder him, A2 took an iron rod and attacked the deceased on his front head and while he got up and ran, he was again attacked on his back head, as a result of which, he fell down with blood injuries. Thereafter, A1 using a nylon rope strangled the neck of the deceased and while he bounced, A1 caught hold of his hands to prevent him from moving and murdered him and thereafter, the accused cleaned the blood stains in the house with water. Therefore, the accused persons have committed the offences under sections 302, 342, 201 r/w 34 of IPC.

4. The learned counsel for the petitioners/A1 and A2 would submit that petitioners are the maternal uncle and mother of the deceased. The prosecution case



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is that the deceased had married P.W.11 against the wishes of their family and had gone to Coimbatore and they came down to Karaikudi in the year 2016 and were staying in a lodge. The deceased had in an inebriated condition came to the house of A2 during the wee hours and created a problem and he had misbehaved with the daughter of A2, P.W.9, which had resulted in an altercation and the occurrence is said to have taken place during that time. He would further submit that excepting the extra-judicial confession of A1, there is absolutely no material to connect the accused to the crime. He would also submit that the petitioners do not have any bad antecedents and that they were on bail during trial and they have not misused the liberty granted to them. The learned counsel would also submit that the petitioners are in custody from the date of conviction and hence, he seeks for indulgence of this Court.

5. The respondent has filed a counter.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners, with the common intention to do away with the deceased, assaulted the deceased with an iron rod and strangled his neck with a nylon rope and committed the murder of the deceased. The Trial Court had rightly appreciated the evidence placed on record and convicted the accused. Hence, he would object for grant of suspension of sentence.



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on record.

7. Heard the learned counsels on both sides and perused the materials available

8. Having gone through the records, we find that it is a fit case for grant of suspension of sentence. Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also taking into consideration the facts and circumstances of the case, we are inclined to suspend the sentence imposed on the petitioners by the Trial Court pending the Appeal.

9. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioners/A1 and A2 is suspended, subject to the following conditions:

i. The petitioners are directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) each, with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Sivagangai.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.

iii. The petitioners shall appear before the Trial Court once in a month i.e., on



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the first working day of every English Calendar month at 10.30 a.m., until further orders.

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sd/-
01/08/2024

/ TRUE COPY /

02/08/2024

Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LM

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, SIVAGANGAI.
- 2 THE INSPECTOR OF POLICE, KARAUKUDI NORTH POLICE STATION,
SIVAGANGAI DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 4 THE SUPERINTENDENT, CENTRAL PRISON (WOMEN CELL), MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate (SR-9201[I] dated 01/08/2024)

ORDER IN
CRL MP(MD) No.4523 of 2024
in CRL A(MD) No.352 of 2024
Date :01/08/2024

RS//SAR-(02.08.2024) 6P 7C

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